

1
2
3
4
5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
7

8 MERCY AMBAT, *et al.*

No. C 07-03622 SI

9 Plaintiffs,

**ORDER GRANTING DEFENDANTS'
DISCOVERY MOTION**

10 v.

11 CITY AND COUNTY OF SAN FRANCISCO,

12 Defendants.
13 _____/

14 Defendants seek an order compelling plaintiffs to answer questions about certain information
15 in plaintiffs' personnel files. Plaintiffs are San Francisco sheriff's deputies. They allege that the San
16 Francisco Sheriff's Department has engaged in discriminatory employment practices and has retaliated
17 against them for participating in this lawsuit. At deposition, plaintiffs' counsel has instructed plaintiffs
18 not to answer questions pertaining to records of their disciplinary history at the Sheriff's Department.
19 Plaintiffs argue that this information is not discoverable because (1) it is not relevant to the issue of
20 whether the department's staffing policy is discriminatory, (2) allowing discovery on this topic will have
21 a "chilling effect" on plaintiffs, (3) defendants may not review documents in plaintiffs' personnel files
22 without filing a *Pitchess* motion.


23 The Court finds that information about plaintiffs' disciplinary history is discoverable. This
24 information is relevant to a central issue in this case: whether the department had a legitimate reason
25 for taking disciplinary actions against plaintiffs or whether these measures were retaliatory. Any
26 concerns about the chilling effect this inquiry might have on plaintiffs are outweighed by the
27 department's right to gather evidence in its defense. In addition, the threat of discouraging anti-
28 discrimination litigants is minimal here as plaintiffs have already brought this action. Finally, the

1 *Pitchess* procedure is used in state court and has no relevance in this proceeding. The fact that
2 defendants have invoked California evidentiary rules concerning personnel records in other cases is
3 likewise irrelevant here. Finally, the Court finds that any privacy concerns can be adequately addressed
4 by producing the documents subject to the parties' stipulated protective order. *See* Docket No. 86.

5 Accordingly, the Court orders plaintiffs to respond to questions about their disciplinary records.
6 Defendants need not file a motion before asking plaintiffs about specific documents in their personnel
7 files.

8 **IT IS SO ORDERED.**

9
10 Dated: June 6, 2009



SUSAN ILLSTON
United States District Judge

United States District Court
For the Northern District of California